

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Scheer) Examiner:	Cuff, Michael A.
)	
Serial No.:	09/867,200) Art Unit:	3627
)	
Filed:	May 29, 2001) Attorney Doc.:	31083.05US3
)	
Title:	Method For Managing)	
	Inventory Within An)	
	Integrated Supply Chain)	

REQUEST FOR REHEARING

Mail Stop Appeal Briefs - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 CFR § 41.52, Appellant hereby requests a rehearing of the subject appeal. This request is being filed within two months of the date of original decision, July 14, 2009.

Appellant is requesting a rehearing because the decision of the Board evidences that the Board misapprehended or overlooked Appellant's argument that the rejection of the claims under 35 U.S.C. § 103 over Caveney (U.S. Patent No. 5,608,621) in view of Tsukishima (U.S. Patent No. 6,535,773) could not be maintained for the reason that both references fail to disclose, teach, or suggest the claimed elements of:

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By: 

Gladys Negron-Munoz

a) using a critical stocking ratio for each of a plurality of items *to apportion a total quantity of each of a plurality of items* which can be held in inventory over a forecast period *in shares to a plurality of distribution points in a supply chain* (Reply Br., pgs. 3-5);

b) *determining a replenishment method for each of the plurality of items at each of the plurality of distribution points in the supply chain* (Reply Br.; pgs. 5 and 6); or

c) *executing the replenishment method to create orders for items at any of the plurality of distribution points in the supply chain* that fail to have a base stocking level for any of the plurality of items thereby causing inventory within the supply chain to be managed in accordance with the critical stocking ratio (Reply Br.; pgs. 5 and 6).

That these arguments were not considered (and accordingly not addressed) by the Board is evidenced by the fact that the Board never concluded that Tsukishima discloses managing inventory, determining a replenishment method, or executing a replenishment method over a plurality of distribution points in a supply chain. Rather, the Board merely concluded that Tsukishima discloses “apportion[ing] the total quantity of each of a plurality of items” *that are held in inventory*. (Opinion; pgs. 4-7).

Because these claimed elements are not disclosed within Tsukishima or Caveney (Ex. Ans.; pg. 5 - “Caveney fails to explicitly disclose the use of the inventory management system over a plurality of distribution points in the supply chain”) it is respectfully submitted that the rejection of the claims under 35 U.S.C. § 103 must be withdrawn. *see KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 407 (2007) (noting “the need for caution in granting a patent based on the combination of elements found in the prior art.”)

As concerns the arguments that the Tsukishima does not disclose these claimed elements, Appellant noted that:

a) each of the cited to Title of Tsukishima, Fig. 1 of Tsukishima, Col. 7:40-48 of Tsukishima, and Col. 1:61-Col. 2:5 of Tsukishima fail to disclose “apportioning a total quantity of each of a plurality of items which can be held in inventory...in shares to a plurality of distribution points in a supply chain” (Reply Br.; pgs. 3-4);

b) Tsukishima fails to disclose “determining a replenishment method for each of a plurality of items at each of a plurality of distribution points in a supply chain” as evidenced by the failure to cite to any disclosure within Tsukishima where these claimed elements may be found (Reply Br.; pg. 5); and

c) Tsukishima fails to disclose “executing a replenishment method to create orders for items at any of a plurality of distribution points in a supply chain that fail to have a base stocking level for any of the plurality of items thereby causing inventory within the supply chain to be managed in accordance with a critical stocking ratio” as evidenced by the failure to cite to any disclosure within Tsukishima where these claimed elements may be found (Reply Br.; pg. 5).

In the opinion of the Board, the Board did not address these arguments. Rather, as noted above, the Board only concluded that Tsukishima generally discloses allotting or apportioning child-items *already in inventory* to the construction of a parent-item. (Opinion; FF4 and FF5).

Believing that Tsukishima fails to disclose the claimed elements that have been acknowledged to be missing from Caveney, it is again respectfully requested that the rejection of the claims under 35 U.S.C. § 103 based upon the combination of Caveney and Tsukishima be withdrawn.

Conclusion

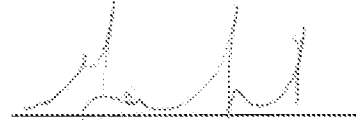
It is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the Board is respectfully requested.

While it is not believed that any fees are due, the Commissioner is authorized to charge any fee requirements to Deposit Account No. 502428 in the name of Greenberg Traurig.

Respectfully Submitted;

Date: August 6, 2009

By:



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